

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 26, 2000

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B123793 People v. Vasquez et al.
B125430 People v. Yari B.
B128402 American Environmental v. Araghi
B129572 People v. Reynolds
B130446 People v. Baird
B131661 People v. Joice, Jr.
B131915 People v. Flanagan
B132422 People v. Tucker
B134052 People v. Adams
B134609 People v. Smith
B134615 People v. Headspeth
B134638 People v. Wilson V.
B134788 People v. Owens
B136719 People v. Jackson
B136837 People v. Toriz
B138618 Etta M. v. S.C.L.A. (D.C.F.S., rpi)
B138963 Consuela D. v. S.C.L.A. (D.C.F.S., rpi)

Argument waived, cause submitted.

B133950 People
 v.
 Kandice A.

Merits:

Argued by Margaret E. Dunk for appellant and by Analee J. Nations,
deputy attorney general, for respondent. Cause submitted.

DIVISION ONE (Continued)

B130106 People
 v.
 Morales

Merits:

Argued by Nancy J. King for appellant and by William V. Ballough, deputy attorney general, for respondent. Cause submitted.

B132343 People
 v.
 Fisher

Merits:

Argued by Nancy J. King for appellant and by Scott A. Taryle, deputy attorney general, for respondent. Cause submitted.

B135032 People
 v.
 Anthony Levon S.

Merits:

Argued by Brent Riggs, deputy district attorney, for appellant and by Michael Theberge, deputy public defender, for respondent. Cause submitted.

B129000 Grover et al.
 v.
 Northern Trust Bank of California

Merits:

for Argued by Thomas J. Jeffers, Jr. for appellants and by Michael F. Kanne
 respondent. Cause submitted.

DIVISION ONE (Continued)

B129832 Ngo
 v.
 Lincoln Title Company

Merits:
Argued by James T. Stroud for appellant and by Stephanie J. Shulman for respondent. Cause submitted.

B132829 Wiener
 v.
 Williams et al.

Merits:
Argued by Thomas N. Charchut for respondents and no appearance for appellant. Cause submitted.

B134561 People v. Chen et al.
B139838 In re Licher on Habeas Corpus

Merits:
Argued by Ronnie Duberstein for appellant Licher and by Jim Hart, deputy attorney general, for respondent. The parties are directed to file supplemental briefs. Submission deferred.

B137318 Brinks, Inc.
 v.
 Workers Compensation Appeals Board
 Luilly Ricaldy Mendez, et al.

Merits:
Argued by Diane Riave for petitioners and by William J. Kropach for respondents. Cause submitted.

DIVISION ONE (Continued)

B130139 King
 v.
 Virginian Association Inc., et al.

Merits:
Argued by Harvey L. Katzman for appellant and by Daniel J. Koes for
respondents. Cause submitted.

B133406 People
 v.
 Sims

Merits:
Argued by Sylvia Whatley Beckham for appellant and by Mary Sanchez,
deputy attorney general, for respondent. Cause submitted.

B134006 People
 v.
 Moreno, Jr.

Merits:
Argued by Richard L. Schwartzberg for appellant and by William V.
Ballough, deputy attorney general, for respondent. Cause submitted.

B125589 Jeffrey
 v.
 Akazawa

Merits:
Argued by Cyril Czajkowskj for appellant and by John D. Rowell for
respondent. Cause submitted.

DIVISION ONE (Continued)

B128958 People
 v.
 Escobedo

Merits:
Argued by Judy Weissberg-Ortiz for appellant and by Valerie A. Baker,
deputy attorney general, for respondent. Cause submitted.

B123883 First American Title
 v.
 Burlison, Jr., et al.

Merits:
Argued by John P. Schock for appellants and by David J. Earle for
appellants. Cause submitted.

B130644 Allegretti & Company
 v.
 Pittman

Merits:
Argued by Alan J. Carnegie for appellant and by Michael M. Bergfeld for
respondent. Cause submitted.

B130803 Andonian Brothers
 v.
 Titizian et al.

Merits:
Argued by Kenneth H. Carlson for appellants and by James L.
Schmerbauch for respondent. Cause submitted.

DIVISION ONE (Continued)

B131279 Apartment Association etc.
 v.
 City of Los Angeles

Merits:

Argued by Lawrence J. Straw for appellants and by Jack Brown, deputy city attorney, for respondent. Cause submitted.

B133566 People
 v.
 Llamas

Merits:

Argued by Martin H. Rub for appellant and by Steven E. Mercer, deputy attorney general, for respondent. Cause submitted.

B130135 Hurst
 v.
 Dack et al.

Merits:

Argued by Thomas J. Jeffers, Jr. for appellants and by Valerie K. Byer for respondent Chinello & Mandell. Cause submitted.

B131782 People
 v.
 Coleman

Merits:

Argued by Gerson Simon for appellant and by Kenneth N. Sokoler, deputy attorney general, for respondent. Cause submitted.

DIVISION ONE (Continued)

B134946 BKDL, LLC.
 v.
 The Bonston Group L.P.

Merits:
Argued by John B. Wallace for appellants and by Lois Thompson for respondent. Cause submitted.

B136244 The People
 v.
 Denser

Merits:
Argued by Patrick D. Moran, deputy district attorney, for appellant and by John Charles Varga for respondent. Cause submitted.

B132370 People v. Rosenkrantz
B138635 In re Rosenkrantz on Habeas Corpus

Merits:
Argued by Rowan K. Klein for appellant and by Robert D. Wilson, deputy attorney general for respondent. Cause submitted.

B138946 Paramount Pictures Corp., et al.
 v.
 S.C.L.A.
 Glamour Models, Inc., et al.

Merits:
Argued by Kelli L. Sager for petitioners and by James B. Kropff for real parties in interest. Cause submitted.

Court adjourned.

April 26, 2000-Continued

DIVISION TWO

B129734 People (Not for Publication)
v.
Eason

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

B128356 People (Not for Publication)
v.
Taylor

The judgment is affirmed.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

B127746 People (Not for Publication)
v.
Jackson

Appellant's convictions on the count 1 related offense of simple assault and the count 2-related offenses of assault on a peace officer, simple assault, simple battery and resisting or interfering with a peace officer are reversed. In all other respects, the judgment is affirmed.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B136597 People (Not for Publication)
v.
John R.

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Cooper, J.

B128996 People (Not for Publication)
v.
Joshua P.

The judgment is affirmed.

Boren, P.J.

We concur: Cooper, J.
Mallano, J. (Assigned)

DIVISION THREE

B124161 People (Certified for Publication)
v.
Humberto O.

The judgment is reversed.

Aldrich, J.

We concur: Klein, P.J.
Schneider, J. (Assigned)

DIVISION THREE (Continued)

B116311 Ruben Martinez, et al.
 v.
 Bank of America National Trust & Savings Assoc.

Filed order vacating submission order of January 28, 2000. Parties directed to file supplemental briefs pursuant to Government Code section 68081. Cause resubmitted.

B123708 People
 v.
 Seung Hyun Choi

Due to the press of other court business and the complexity of the issues in this case the submission order of January 26, 2000, is vacated. Cause resubmitted.

B123721 People
 v.
 Francisco Guillermo Juarez & Dimas Miranda Franco

Due to the press of other court business and the complexity of the issues in this case the submission order of January 26, 2000, is vacated. Cause resubmitted.

B130576 Rattan Specialties Inc.
 v.
 Homes Savings of America and Foothill Independent Bank

Due to the press of other court business and the complexity of the issues in this case the submission order of January 26, 2000, is vacated. Cause resubmitted.

DIVISION THREE (Continued)

B124297 Pacific Greystone Corporation et al. (Not for Publication)
v.
Aetna Insurance Company

The judgment is reversed with respect to the grant of summary adjudication on Issues Numbers 1,3,4,11 and 13 contained in Travelers' motion. The judgment is also reversed with respect to the grant of summary judgment to Travelers on Greystone's causes of action for breach of contract in Regatt, bad faith in Regatt, conspiracy, breach of contract in Galleria and bad faith in Galleria. The judgment is affirmed with respect to the grant of summary adjudication on Issue Number 12. Our opinion renders moot Issues Numbers 8 and 10 contained in Travelers' motion. The judgment is reversed with respect to the denial of summary adjudication on Issues Numbers 1 and 2 contained in Greystone's motion for summary adjudication and affirmed with respect to Issue Number 3 contained in Greystone's motion.
Greystone is to recover its costs on appeal.

Schneider, J. (Assigned)

We concur: Klein, P.J.
Croskey, J.

B134741 Carol Earley et al.
v.
Superior Court, Los Angeles County
(Washington Mutual Bank, r.p.i.)

Filed order modifying opinion. (Change in judgment)

DIVISION FOUR

B130113 People v. Mojahed (Not for Publication)

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

[illegible]

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

B131906 People (Not for Publication)
v.
Duren

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

April 26, 2000-Continued

DIVISION FOUR (Continued)

[illegible]

The judgment of conviction is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B136762 Cimarusti et al. (Certified for Publication)
v.
Superior Court, Los Angeles County
(Department of the Youth Authority, r.p.i.)

Filed order modifying opinion. (No change in the judgment)

DIVISION FIVE

B130864 People (Not for Publication)
v.
Mario Prado

Appellant's conviction for assault with a deadly weapon is reversed. The People have 60 days to announce whether they intend to retry appellant for that offense. If the People do not retry appellant, then the charge shall be dismissed and the clerk of the superior court shall prepare and send to the Department of Corrections an amended abstract of judgment reflecting dismissal of the offense. Regardless of how the People choose to proceed on the assault with a deadly weapon charge, the clerk of the superior court shall in any event amend the abstract of judgment to reflect a \$200 parole revocation fine under Penal Code section 1202.45 and shall forward the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B132426 People (Not for Publication)
v.
Melvin Franklin et al.

The judgment is modified as follows as to Mr. Franklin: (1) count 3, a violation of Health and Safety Code section 11350, subdivision (a) (1) is dismissed; (2) the amount of presentence conduct credit is reduced to 66 days; (3) the Penal Code section 1202.4 restitution fine is reversed; and (4) the sentence as to count 2, the violation of Penal Code section 12021, subdivision (a) (1) is stayed pursuant to Penal Code section 654, subdivision (a) pending the service of the sentence as to count 1, upon service of the sentence as to count 1, the stay is to become permanent. As to Mr. Lagway, a Penal Code section 1202.45 parole revocation restitution fine is imposed. Further, the abstract of judgment as to Mr. Lagway is modified to reflect that the restitution fine was imposed pursuant to Penal Code section 1202.4, subdivision (b). As to both Mr. Franklin and Mr. Lagway, the judgments are modified to impose Health and Safety Code section 11372.5, subdivision (a) criminal laboratory fees in the sum of \$50 plus Penal Code section 1464, \$50 penalty assessments and \$35 each in compliance with Government Code section 7600. In all other respects, the judgments are affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B129575 Jerr Caruthers (Not for Publication)
v.
Union Oil Company of California et al.

The judgments affirmed. Defendants, Tosco Corporation, Union Oil Company of California, and David J. Gunderson, are to recover their costs on appeal from plaintiff, Jerr Caruthers.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION SIX

B131884 Weissmiller (Not for Publication)

V.

The City of Long Beach

Comstock, Crosser & Associates, etc., et al.

The judgment is affirmed. Costs are awarded to respondents.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B132065 People (Not for Publication)

V.

Thornhill

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B128688 Sakotas (Certified for Publication)

V.

Worker's Compensation Appeals Board

The petition for writ of review is denied. The opinion and order of the WCAB is affirmed. Costs are awarded to respondents

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J.

DIVISION SEVEN

B130407 People (Not for Publication)
v.
Gilmore

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B113890 People (Not for Publication)
v.
Masog

The judgment is affirmed. The clerk of the superior court shall prepare an amended abstract of judgment indicating appellant is to serve an aggregate term in state prison of ten years, consisting of a nine-year term for count 1 first degree robbery and a subordinate term of one year for the count 3 second degree robbery. The terms imposed for counts 2 and 5, simple kidnapping, and for count 7 false imprisonment, are imposed concurrently. The clerk shall send the amended abstract of judgment to the California Department of Corrections.

Johnson, J.

We concur: Lillie, P.J.
 Neal, J.

B127946 Allen (Certified for Publication)
v.
Sully-Miller Contracting Company

The judgment is reversed and the cause remanded for new trial. Appellant to recover his costs on appeal.

Johnson, J.

I concur: Lillie, P.J.
I dissent: Neal, J. (Opinion)

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
 Johnson, J.

B134859 James G. (Certified for Partial Publication)
v.
Superior Court, Los Angeles County
(People of the State of California, r.p.i.)

A peremptory writ of mandate shall issue directing the respondent to vacate its order denying petitioner's request for appointment of an expert, and to issue a new order appointing the expert.

Woods, J.

I concur: Johnson, Acting P.J.
I concur and dissent: Neal, J. (Opinion)